

services with over 200 kbps capability in at least one direction.<sup>59</sup> In the *2008 Data Gathering Order*, the Commission updated the broadband reporting speed tiers and created the term “first generation data” to refer to those services with data rates greater than 200 kbps but less than 768 kbps in the faster direction, and the term “basic broadband tier 1” to refer to services equal to or greater than 768 kbps but less than 1.5 mbps in the faster direction. Subsequent tiers were labeled “broadband tier 2” through “broadband tier 7.”<sup>60</sup>

15. *CMRS Competition Reports.* The Commission also provides data regarding the availability of commercial mobile wireless broadband services in its annual Commercial Mobile Radio Service (CMRS) Competition Report.<sup>61</sup> Based on carrier-specific and technology-specific coverage maps provided through a contract with American Roamer, the CMRS Competition Reports enable the Commission to calculate the percentage of the U.S. population, based on Census Tracts, living in an area with mobile broadband network coverage. The Commission also uses the coverage maps to estimate the percentage of the population living in Census Tracts with a certain number of mobile broadband competitors.<sup>62</sup> The CMRS Competition Reports also discuss technology upgrades and innovations by wireless broadband providers, applications and services available on wireless broadband networks, and mobile broadband pricing and usage levels.<sup>63</sup>

16. *Other Data Collection.* We also note that the Commission collects many other types of data,<sup>64</sup> including data collected for the annual satellite competition report. This report investigates the reach of satellite-based two-way broadband to the home.<sup>65</sup>

17. *Broadband Regulation and Classification.* The Commission has, for many years, had regulations aimed at advancing the deployment of broadband and advanced services. The Commission's first such regulations, spawned in an era of a monopoly telephone system, were designed to permit the

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*Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, CC Docket No. 98-146, Third Report, 17 FCC Rcd 2844, 2850, para. 9 (2002) (*Section 706 Third Report*); *Availability of Advanced Telecommunications Capability in the United States*, GN Docket No. 04-54, Fourth Report to Congress, 19 FCC Rcd 20540, 20551-52 (2004) (*Section 706 Fourth Report*).

<sup>59</sup> See *Section 706 Second Report*, 15 FCC Rcd at 20920, para. 11; *Section 706 Third Report*, 17 FCC Rcd at 2850-51, para. 9; *Fourth Report*, 19 FCC Rcd at 20551.

<sup>60</sup> *2008 Data Gathering Order*, 23 FCC Rcd at 9700-01, para. 20 n.66.

<sup>61</sup> See, e.g., *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, WT Docket No. 08-27, Thirteenth Report, DA 09-54, (WTB rel. Jan. 16, 2009) (*13<sup>th</sup> Annual CMRS Competition Report*).

<sup>62</sup> See *13<sup>th</sup> Annual CMRS Competition Report*, paras. 2, 37, 144-47. American Roamer is an independent consulting firm that tracks service provision for mobile voice and mobile data services. *Id.* at para. 37.

<sup>63</sup> See *13<sup>th</sup> Annual CMRS Competition Report*, paras. 119-24, 134-40, 148-52, 164-76, 201-07.

<sup>64</sup> Section 623(k) of the Communications Act, as amended by the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460 § 3(k) (codified at 47 U.S.C. Section 543(k)), requires the Commission to publish a statistical report on average rates charged by cable operators for the basic cable service and cable programming service tiers, and cable equipment. The Commission gathers this information by requiring a sample of cable operators to respond to a Commission questionnaire. As part of this questionnaire, the Commission asks cable operators whether they offer “Internet” service to their subscribers and what percent of these subscribers purchase their Internet service. Cable operators responding to this survey are required to provide this information for the “smallest system area for which they keep records.”

<sup>65</sup> See, e.g., *Annual Report and Analysis of Competitive Market Conditions with Respect to Domestic and International Satellite Communications Services*, IB Docket No. 06-67, First Report, 22 FCC Rcd 5954 (2007).

development of “enhanced services.”<sup>66</sup> In recent years, the Commission has turned to a deregulatory policy framework for facilities-based providers of broadband Internet access services based on limited regulation under Title I of the Act, rather than extensive regulation under Title II.<sup>67</sup> Regulating broadband Internet access under Title I of the Act, rather than Title II, led the Commission to inquire about how long-standing public interest requirements might apply in the revised policy framework.<sup>68</sup>

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<sup>66</sup> For a detailed history of Commission regulations regarding enhanced services, see *Wireline Broadband Order*, 20 FCC Rcd 14853.

<sup>67</sup> See *Wireline Broadband Order*, 20 FCC Rcd 14853 (2005); see also *National Cable & Telecommunications Ass'n v. Brand X Internet Services*, 125 S. Ct. 2688 (2005) (*NCTA v. Brand X*), *aff'g Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities; Internet Over Cable Declaratory Ruling; Appropriate Regulatory Treatment for Broadband Access to the Internet Over Cable Facilities*, GN Docket No. 00-185, CS Docket No. 02-52, Declaratory Ruling and Notice of Proposed Rulemaking, 17 FCC Rcd 4798 (2002) (*Cable Modem Declaratory Ruling and NPRM*); *Appropriate Regulatory Treatment for Broadband Access to the Internet Over Wireless Networks*, WT Docket No. 07-53, Declaratory Ruling, 22 FCC Rcd 5901 (2007); *United Power Line Council's Petition for Declaratory Ruling Regarding the Classification of Broadband over Power Line Internet Access Service as an Information Service*, WC Docket No. 06-10, Memorandum Opinion and Order, 21 FCC Rcd 13281 (2006) (*BPL Order*).

<sup>68</sup> See *Consumer Protection in the Broadband Era NPRM*, 20 FCC Rcd 14853 (2005); see also *Appropriate Framework for Broadband Access to the Internet over Wireline Facilities Review of Regulatory Requirements for Incumbent LEC Broadband Telecommunications Services Computer III Further Remand Proceedings; Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review – Review of Computer III and ONA Safeguards and Requirements Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities Internet Over Cable Declaratory Ruling Appropriate Regulatory Treatment for Broadband Access to the Internet Over Cable Facilities*, Policy Statement, 20 FCC Rcd 14986 (2005) (*Internet Policy Statement*).

**STATEMENT OF  
ACTING CHAIRMAN MICHAEL J. COPPS**

Re: *A National Broadband Plan for Our Future*, GN Docket No. 09-51

Today we commence a national dialogue on how we as a nation can make high-speed broadband available, affordable and easily useable to citizens and businesses throughout the land. This is a good news item. In spite of the fact that it springs in part from an economic downturn that has put a lot of our fellow citizens on the ropes, it signals that at long last we are getting serious about making our citizens and our country more competitive, prosperous, and fulfilled. It means that we are coming to grips with the fact that we have a long way to go to get high-speed, value-laden broadband out to all our citizens. It means that we are beginning to understand that real economic and social progress needs to be fueled by both vigorous private enterprise *and* enlightened public policy. The missing ingredient until this year has been the enlightened public policy.

This Commission has never, I believe, received a more serious charge than the one to spearhead development of a national broadband plan. Congress has made it crystal clear that it expects the best thinking and recommendations we can put together by next February. If we do our job well, this will be the most formative—indeed transformative—proceeding ever in the Commission's history.

Broadband can be the great enabler that restores America's economic well-being and opens doors of opportunity for all Americans to pass through, no matter who they are, where they live, or the particular circumstances of their individual lives. It is technology that intersects with just about every great challenge confronting our nation—whether it's jobs, education, energy, climate change and the environment, international competitiveness, health care, overcoming disabilities, equal opportunity—the list goes on. Enabling our people and our enterprises through value-laden broadband can spell the difference between just muddling through if we're lucky and opening the way to many more years of U.S. prosperity and world leadership.

When I arrived here in 2001 and called for the Commission to engage in a serious dialogue about the future of broadband, it was unclear whether such a dialogue would occur. On many occasions over the intervening years, I talked about how the country lacked a national strategy; how we lacked even the essential data on which to build a viable strategy; and how we were paying way too high a price because of a cavalier approach to an urgent national problem. But that was then and today is now. We have new national leadership committed to broadband and we have economic dislocation that has awakened many people to the need for a decidedly new direction. But we're not going to get to where we need to go without a road map, and it's that road map that we begin designing today. We begin at last to do what we should have done years ago—make a plan for how the United States becomes the world's broadband beacon.

Broadband products and applications, both fixed and mobile, have already fundamentally changed the way Americans go about their daily lives. Many of us—primarily in relatively well-off urban areas—have become at least familiar with the promise of broadband to communicate with family and friends, to telework and bank, to interact with government, to get news and information, and many other applications. Yet all this progress is only a small part—just prologue—to what this technology is going to do to change our lives in the years ahead. Think about the impact high-speed connections can have on students of all ages and in all areas who could access distance learning, research, or job retraining. Or telemedicine networks that can manage medical records, save lives and improve the standard of well-being for Americans living

in areas that lack access to the breadth of medical expertise, specialty care, and advanced medical technologies available in other areas. Think about a nationwide, interoperable public safety system to help first responders see us through hurricanes, tornadoes, blizzards and man-made disasters. Think about smart grids for energy efficiency. New tools to gauge and even slow climate change. The list goes on. In fact, it would be a far shorter list if we enumerated those aspects of our national life that will *not* be impacted by high-speed, value-laden broadband.

So we launch today. Our Notice of Inquiry seeks to be open, inclusive, out-reaching and data-hungry. It seeks input from stakeholders both traditional and non-traditional—those who daily ply the halls of our hallowed Portals, those that would like to have more input here if we really enable them to have it, and those who may never have heard of the Federal Communications Commission. It will go outside Washington, DC to rural communities, the inner city and tribal lands. It will go where the facts and the best analysis we can find take it. It will look at broadband supply and broadband demand. It will look at broadband quality and affordable prices. It will endeavor to better understand, and hopefully build upon, the cross-cutting nature of what broadband encompasses, beginning with an appreciation that it brings opportunities to just about every sphere of our national life. And it can also consider, in addition to the many opportunity-generating characteristics of broadband, how to deal with any problems, threats or vulnerabilities that seem almost inevitably to accompany new technologies. Ensuring broadband openness, avoiding invasions of people's privacy, and ensuring cybersecurity are three such challenges that come immediately to mind. We have never in history seen so dynamic and potentially-liberating a technology as this—but history tells us that no major technology transformation is ever a total, unmixed, problem-less blessing.

Going forward, we will distill the information that enters this NOI funnel with our eyes on the prize—a national broadband plan that is focused, practical and achievable. Instead of trying to resolve every contentious issue that has fueled so many years of seemingly-endless debates over telecommunications—debates that have too often deflected us from the progress we should have been making—we will go in quest of practical suggestions that can be deployed in time to respond to the economic and many other challenges facing us.

It's a huge task that we undertake today. Every Bureau in this Commission will have a role to play in the development of the national broadband plan. I expect everyone here will put their best effort forward to realize the objective we seek. And I hope all stakeholders—and that means whoever wishes to be heard in this critical public policy discussion—will respond to the NOI. Commenters need not—indeed cannot—respond to all the many inquiries we raise, nor should they feel compelled to. Single out those areas where you feel you can make a contribution and share your insights and suggestions with us. If there's a question or a dimension of the problem that the NOI misses, we want to hear about that and have your ideas there, too. When I say we strive to be inclusive, I mean really inclusive.

The preparation of this NOI has been a cross-cutting effort involving just about every office in the Commission. I thank the Bureaus and Offices for the hard work they have already put in—and I also use the occasion to warn them we are only just beginning. I want to thank my two colleagues, Jonathan Adelstein and Robert McDowell, for their participation and leadership and the many helpful suggestions they have made to move this proceeding along. Their staffs have been great, too. My own office has worked hard on this, too, and I want to particularly commend Scott Deutchman for his efforts to bring people and ideas together for our broadband mobilization—and mobilization it is.

Let me also recognize a few special guests here at the Commission this morning: Dennis Amari from the National Telecommunications and Information Administration and David Villano and Mary Campanola from the Rural Utilities Service. Their presence here bespeaks the beginnings of true inter-agency cooperation on the broadband challenge, an effort that is already reaching out to include many other agencies of government at the federal, state and local levels. We need the help of all of them. If no sector is outside the new world of advanced communications, then no agency should be, either.

You may have concluded by now that I think this is a pretty big deal. It really is. You don't have to trust me about that—the President and the Congress think so, too. And, judging from my meetings around the country, I think millions of our fellow citizens get it, too. All these folks are looking for the best possible effort here. That's what my colleagues and I are determined to give them. Of course, if we want the best possible product going out, we need the best possible data, analysis and recommendations coming in. That's why I encourage maximum public input into this critical public policy dialogue.

**STATEMENT OF  
COMMISSIONER JONATHAN S. ADELSTEIN**

Re: *A National Broadband Plan for Our Future*, GN Docket No. 09-51

Today we launch a long overdue, desperately needed effort to establish a national broadband policy. This is a step Chairman Copps and I have advocated for many years. It is wonderful to see it finally come to fruition under your Chairmanship. As we finally undertake this inquiry, it is to implement a historic piece of legislation. While it should not have taken an act of Congress to get us to do our jobs, the fact that Congress acted gives us the funding to do it right, and provides us the mandate to draft an authoritative plan.

I want to thank Chairman Copps for his leadership in bringing an excellent and comprehensive item to us so quickly. At this critical time in our nation's history, this far-reaching NOI asks the right questions. It seeks input from all stakeholders as to how we can design a broadband plan that brings the promise of technology to everyone. For those of us who have long hungered for a meaty discussion of how to craft a national broadband plan, today we set the table for a feast.

Broadband is no longer a luxury. It is essential if we are going to maximize the potential of every citizen to contribute to our social, cultural and economic life. We need the full input of every citizen, whether they live in rural, insular or other high-cost areas, whether they live in economically challenged sections of our inner cities, whether they are persons with disabilities, whether or not they speak English, and regardless of their income level. We need everyone's voice to create a truly national plan that leaves nobody out.

To make our plan more than just words, we must start by upgrading our communications infrastructure in every corner of this country. And we must do a better job of making innovative communications technologies more widely available and affordable. It's clearly in our economic interests to do so, especially given the downturn we face; but it is also in the interests of our health care system, our environment, our education system, our energy grid, our transportation network, our public safety agencies – in fact, broadband will help us address almost every big challenge we face. Other countries around the world have long recognized this. At long last, we have a President, a Congress and a FCC that do, as well.

To address our communications needs, we'll need to rededicate ourselves to the tall tasks of expanding access to broadband services and modernizing universal service. We will harness the talents of everyone in this country to maximize our economic growth, improve our quality of life, and uplift our democracy and the values we hold dear.

To be clear, we are not substituting Government policy for market discipline. Any successful broadband strategy will rely primarily and extensively on the private sector to drive deployment and investment. We need to encourage capital investment, and find ways to facilitate access to the capital markets in these challenging times. A true public-private partnership will require far greater focus from our policy leaders to succeed. We need all players to work together.

On the government side, to reach its full impact, any strategy will need to involve proper coordination across all levels of government. On a Federal level, it will require unprecedented interagency coordination, which we are already seeing on a scale that dwarfs any efforts in the previous Administration. Given the cross-cutting impact of broadband, this will involve far more

agencies than just the ones we usually associate with telecommunications, such as the FCC, NTIA and RUS. A major role is needed by numerous departments including Health and Human Services, Education, Energy, Housing and Urban Development, Transportation, Justice, Homeland Security, Defense, the Small Business Administration, and the Federal Trade Commission, to name a few. This will require coordination at the White House level. And the Federal government will need to coordinate with efforts by our partners in state, local and tribal governments.

And of course we recognize that any effective effort will rely heavily on wireless broadband as the wave of the future, and a key element to reach hard to serve areas. Considering America's ever-increasing appetite for reliable broadband services and applications from mobile devices, the role that wireless will play is huge and undeniable. There is a clear need for focused efforts on spectrum efficiency and management, which will require a thorough spectrum inventory, as many in Congress are now proposing. The future success of our economy demands that we promote the expansion of communications infrastructure and focus our energies on optimizing our spectrum resources.

A key part of any meaningful broadband plan must be accurate, reliable and detailed data on broadband deployment. I am pleased that today's item, among many other important questions, asks how we can build on our current data collection methods to determine who is participating in the broadband revolution, and who is not, including those in tribal lands and rural areas. It is only with these data – which we should have been collecting all along – that we can make sound policy decisions. Today's NOI reminds us that we have also been charged by Congress to develop a comprehensive *rural* broadband strategy under the 2008 Farm Bill with our partners at the Department of Agriculture. I look forward to working with my colleagues on that important plan, which is due to Congress next month.

Broadband is now the critical infrastructure of our economy and our democracy. In the last decade, we have seen the doors of civic participation and economic opportunity blown open by the power of the Internet. And not one of our citizens should be left out. But let's be clear, this won't happen overnight. It will take contributions from every sector – private, public, non-profit and in partnership. Yet it is reassuring to finally have leadership at every level of the Federal government that truly understands the importance of these digital connections. This Notice recognizes the need to pursue a comprehensive strategy that involves improving broadband deployment, availability, affordability, adoption, competition, and cyber security.

Finally, I want to thank the hard-working staff for a true cross-bureau effort in drafting what is one of the most significant items we have seen. With your hard work, today's NOI sets us on the right path to fulfill Congress' intent to bring broadband opportunities to those who need it most, when they need it most.

**STATEMENT OF  
COMMISSIONER ROBERT M. McDOWELL**

Re: *A National Broadband Plan for Our Future*, GN Docket No. 09-51

Our action today, which I support, serves as the first step in the creation of the national broadband plan Congress has directed us to develop. The end result will be the most important public policy initiative affecting broadband since the landmark Telecommunications Act of 1996. Let's all work hard to get it right.

This nation has made great strides in developing and deploying broadband infrastructure and services since the Commission issued the first Section 706 Report in 1999. Today, a wide variety of innovative services are provided to individuals and businesses over copper, cable, fiber, wireless and satellite infrastructure that simply did not exist a decade ago. These successes resulted directly from the lifting of legacy common carrier regulations from broadband services and a removal of other barriers to infrastructure investment that allowed network operators and service providers to attract investment capital to fund their businesses.

In fact, broadband deployment and adoption rates have improved significantly since we adopted these policies. The FCC's own data shows that since 2000, the number of high speed lines has increased more than 1600 percent, from approximately 6.8 million lines in December 2000 to over 121 million lines in December 2007, the most recent period for which we have data. In what might be a better measure of "broadband" deployment, FCC data shows the number of lines with transmission speeds greater than or equal to 2.5 megabits per second grew from December 2005 to December 2007 by 70 percent, from approximately 27 million lines to over 45 million lines.

As a result, the American broadband sector presents us with a solid foundation upon which to build. Although more can, and should, be done to improve on our broadband competitiveness, let's be sure to recognize what has gone right at least as much as we analyze any shortcomings. Some estimates regarding private investment in domestic broadband infrastructure in this year alone exceed \$80 billion – and that is during a time when private capital is extremely scarce at best. Few, if any, industries can make such claims. The point is that even in light of imperfections, the American broadband market has positive momentum in a time when other sectors are struggling. Let's be sure to accelerate that progress with future policy decisions.

As we develop our record in this proceeding, I will keep in mind some fundamental concepts. First, it is critical that our plan be competitively and technologically neutral. Given the incredibly diverse nature of our country – both in terms of geography and demographics – our plan must not favor one particular technology or type of provider over another, even inadvertently. Broadband deployment throughout America simply is not a one-size-fits-all proposition. Wireline, wireless and satellite technologies are meaningful alternatives, each worthy of our attention. For instance, to deny the people of Alaska the benefits of broadband connectivity via wireless and satellite would be tantamount to isolating the tens of thousands of Americans who live on Native lands and in subsistence villages. Thus, as we proceed, we must be mindful of the law of unintended consequences before making any new rules.

In addition, it is essential that our plan give current and prospective broadband network and service providers the proper incentives to deploy new technologies. We must also provide entrepreneurs with the flexibility to make full use of all available spectrum, including the television white spaces, to backhaul broadband traffic. In order to attract investors to fund the



buildout of new networks, we must not engage in rulemakings that produce whimsical regulatory arbitrage. Rather, we must allow market players to succeed or fail on their own merits and not due to the government picking winners and losers. In short, our rules must allow network operators to have a reasonable opportunity to pay back their investors. That's the only way to improve existing networks and build new ones.

It is equally as important that consumers continue to have the freedom to pull – or push – the legal content of their choice anytime, anywhere, and on the device of their choosing within the physical limitations of the networks they use. The market is rushing to satisfy the latest consumer demand in this regard. Let's make sure the government does not get in the way of these developments. Accordingly, we must avoid counterproductive government mandates that can disappear in a two, four or eight year election cycle. Such short time horizons will merely scare away investors.

Because we begin with a clean slate, this Notice of Inquiry presents myriad questions. Some are narrow and specific. Others are broader. All are important. If commenters think of questions we should have asked but did not, please raise them. If you disagree with the premise of a question, by all means say so. Your advice will help us to develop a thoughtful, reasonable, practical and pragmatic plan. As these issues are interdisciplinary and cut across the Commission's stovepipe organization, I am pleased that the responsibility of this proceeding is jointly shared among several bureaus and offices, each with its own expertise and perspective. In the meantime, I look forward to studying the data, analyses and comments and engaging with all stakeholders as we move forward.